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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,567	01/14/2004	Leonid Shendelman	Shendelman	5929
156	7590	08/06/2004	EXAMINER	
KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C. 489 FIFTH AVENUE NEW YORK, NY 10017			SZUMNY, JONATHON A	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,567

Applicant(s)

SHENDELMAN, LEONID

Examiner

Jon A Szumny

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,6,11-17 and 20-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-10,18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

This is the second office action for application number 10/758,567, Plate Stand, filed on January 14, 2004.

Election/Restrictions

Applicant's election of Species 1 (the stand of figures 1, 2 and 5) corresponding to claims 1, 2, 5, 7-10, 18 and 19 in the reply filed on July 19, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Consequently, claims 3, 4, 6, 11-17 and 20-32 are withdrawn from further consideration.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2, 5, 7, 8, 9 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 2, the applicant specifies that the support includes a "platform above a base, and an upright column extending between the base and the platform".

However, claim 1 already recites an "elevated holder". Neither the specification nor the drawings taught the embodiment of species 1 to include both an elevated holder and a platform. It appears that the elevated holder and the platform are referring to the same feature. For instance, modifying claim 2 to read --wherein the elevated holder comprises a platform, and wherein the support includes an upright column extending between a base and the platform-- would rectify this issue. For the purposes of this office action, the Examiner will attempt to apply the art as best understood.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "bowl-like" is confusing because it is not clear exactly which elements would be encompassed by the phrase "bowl-like". Again, however, the Examiner will attempt to apply the art as best understood.

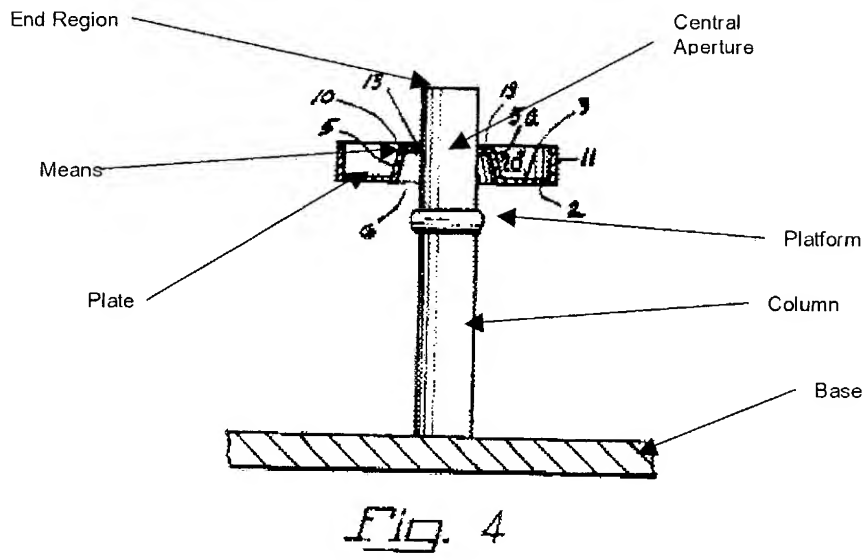
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,715,954 to Zaremba.



Zaremba '594 discloses a stand (above) comprising a support having an elevated holder comprising a platform (top surface of feature indicated above), a plate (above) held by the holder, and a means (above) for detachably mounting the plate on the holder, wherein the platform is above a base (above), and an upright column (above) extending between the base and the platform, wherein the plate has a central aperture (above), and wherein the column has an end region (above) which extends through the aperture.

Claims 1, 2, 5, 7, 8, 9 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,934,634 to Lindblom.

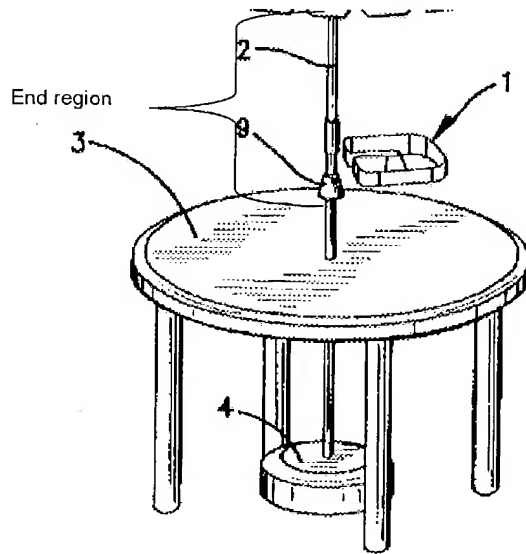


FIG. 1

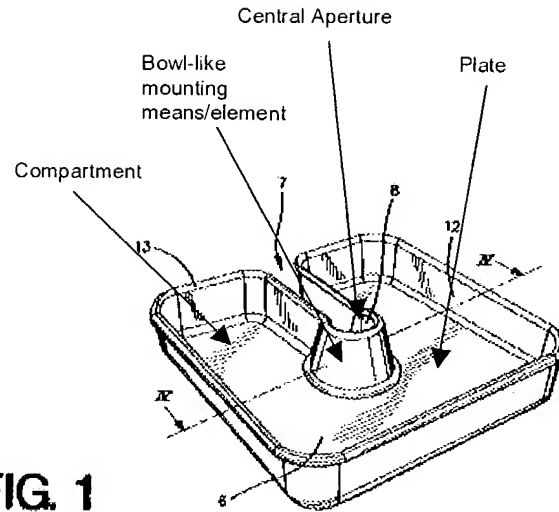


FIG. 3

Lindblom '634 discloses a stand (above) comprising a support having an elevated holder (9), a plate (above) held by the holder, and a means (above) for detachably mounting the plate on the holder, wherein the support includes a platform (3) above a base (4), and an upright column (2) extending between the base and the platform, wherein the base has a planar bottom surface, wherein the plate has a central aperture (above), and wherein the column has an end region which extends through the aperture, wherein the mounting means is an element in engagement with the end region, where the element has a bowl-like shape, wherein the plate has a compartment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zaremba '594.

Zaremba '594 teaches the previous invention, but fails to specifically teach a container to be inserted into an open end of end portion of the column. However, Zaremba '594 teaches such a container in the embodiment of figure 6b (see top of figure 6b). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a container that is inserted into an open end of the end region of the column of Zaremba so as to increase the utility of the stand by providing for more storage space.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindblom '634 in view of U.S. Patent number 5,873,312 to Mauro-Vetter.

Lindblom '634 teaches the previous invention failing to specifically teach the column to be of adjustable length. Nevertheless, Mauro-Vetter '312 teaches the well known use of an adjustable length column in a stand (10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the column of Lindblom '634 so as to be of adjustable length in order to increase the utility of the stand by providing for a more adjustable stand.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Parker '283, Wuensch et al. '671, Horn '913, Montelius '901, Innocenti et al '133, Zaremba '344, Wills '731, Held '145, McBride '243, Endean '838, Shih '050, Flournoy '073 and Brodmann et al. '609 teach various stands including supports, plates, columns, and bases.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
August 4, 2004